

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II**

In The Matter of:

Majestic Garment Cleaners, Inc.
740 Pine Street
Brooklyn, NY 11208

Respondent

Proceeding Under Section 3008 of the
Solid Waste Disposal Act, as amended

**COMPLAINT, COMPLIANCE ORDER
AND NOTICE OF OPPORTUNITY
FOR HEARING**

Docket No. RCRA-02-99-7105

COMPLAINT

This is a civil administrative proceeding instituted pursuant to Section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. §§ 6901-6991 (the "Act" or "RCRA").

This COMPLAINT, COMPLIANCE ORDER AND NOTICE OF OPPORTUNITY FOR HEARING ("Complaint") serves notice of EPA's preliminary determination that MAJESTIC GARMENT CLEANERS, INC. ("Majestic Garment"), has violated requirements of the State Program and federal regulations promulgated under RCRA.

Section 3006(b) of the Act, 42 U.S.C. § 6926(b), provides that the Administrator of the United States Environmental Protection Agency ("EPA") may, if certain criteria are met, authorize a state to operate a hazardous waste program in lieu of the federal program. The State of New York received final authorization to administer its base hazardous waste program on May 29, 1986 and authorization for many of the HSWA requirements on May 22, 1992. Effective October 1997, the State of New York received final authorization to administer most of its hazardous waste program. Section 3008 of the Act, 42 U.S.C. § 6928, authorizes EPA to enforce the regulations comprising the authorized State program (the "State Program"). EPA still retains primary responsibility for certain requirements promulgated pursuant to HSWA.

The Complainant in this proceeding, George Pavlou, the Director of the Division of Enforcement and Compliance Assistance, of the EPA, Region II, who has been duly delegated the authority to institute this action, hereby alleges upon information and belief:

GENERAL ALLEGATIONS

1. Respondent is Majestic Garment Cleaners, Inc. (hereinafter ``Majestic Garment``).
2. Majestic Garment is a corporation, incorporated in the State of New York on July 22, 1998.
3. Majestic Garment conducts dry cleaning, laundering, drapery cleaning, and tailoring operations in a facility located at the intersections of Loring Avenue, Pine Street and Euclid Avenue bearing the addresses of 1147 - 1151 Loring Avenue, 740 - 748 Pine Street and 800 Euclid Avenue, Brooklyn, NY 11208 (the "facility").
4. Majestic Garment is an "operator" as that term is defined in 6 NYCRR § 370.2(b)(128).
5. Majestic Garment is a "person", as that term is defined in § 1004(15) of the Act, 42 U.S.C. § 6903(15) and 6 NYCRR § 370.2(b)(133).
6. The hazardous wastes generated through dry cleaning and related activities at the facility have included, without limitation, wastes that exhibit the toxicity characteristic of tetrachloroethylene ("perc") ("D039"), wastes that contain the spent solvent tetrachloroethylene ("F002"), and tetrachloroethylene wastes ("U210").
7. Majestic Garment is a "generator" of "hazardous waste" as those terms are defined in 6 NYCRR §§ 370.2(b)(78) and 371.1(d).
8. Majestic Garment during 1999 has been a "small quantity generator" ("SQG") of hazardous waste as that term is defined in 6 NYCRR § 370.2(b).
9. The facility during 1999 has been a "hazardous waste management facility" as that phrase is defined in 6 NYCRR § 370.2(b)(84).
10. On or about January 25, 1999, representatives of EPA ("inspectors") conducted a Compliance Evaluation Inspection ("inspection") of the facility.
11. During the inspection of the facility, the following waste streams were present at the facility: (a) perc-contaminated

waste distillation residues ("still bottoms"), (b) spent filter cartridge wastes, (c) spin disk residuals wastes, (d) perc-contaminated separator wastewater, (e) perc-contaminated spill wastes and (f) perc-contaminated lint wastes.

12. Each of the waste streams described above in paragraph "11" was a hazardous waste as defined by 6 NYCRR § 371.1(d)(3)(ii) ('a').
13. During the inspection, personnel at the facility stated that they disposed of vacuumed up perc-contaminated lint wastes by emptying those wastes into a dumpster.
14. During the inspection, perc-contaminated separator water was being collected in three open buckets.
15. One of the buckets described above in paragraph "14" was overflowing into a floor drain.
16. During the inspection, a steady leak of steam and liquid was occurring from a dry cleaning unit.
17. The liquid component of the leak described above in paragraph "16" was going into a floor drain.
18. During the inspection, personnel at the facility admitted that the leak described above in paragraph "16" had been occurring for about a week.
19. During the inspection, a second liquid leak from another dry cleaning unit was dripping directly from a perc residual distillation tank into an overflowing metal pan.
20. During the inspection, the area behind and around the dry cleaning machines was visibly contaminated with both perc-contaminated lint and a dark liquid residue.
21. During the inspection, personnel at the facility collected post dry cleaning process steam press water and disposed of it by piping the process steam press water outside of the building onto the ground.

22. During the inspection, personnel at the facility stated that they disposed of washings from the perc-contaminated spin disks down the drain.
23. At the time of the inspection, eight standard, 15-gal black plastic drums, containing perc-contaminated still bottoms, were being stored at the facility.
24. During the inspection, personnel stated that they did not perform weekly inspections of the area where these plastic drums containing perc-contaminated still bottoms were being stored.
25. On or about March 29, 1999, a representative of EPA ("inspector") conducted a reinspection ("reinspection") of the facility.
26. During the reinspection, the same conditions that were described above in paragraphs "14" to "15", "19" to "21" and "23" existed at the facility.

COUNT 1- Failure to Respond to An Information Request letter

27. Complainant realleges each allegation contained in paragraphs "1" through "26", inclusive, with the same force and effect as if fully set forth herein.
28. On or about March 12, 1999, EPA issued a joint Notice of Violation ("NOV")/Request for Information, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927 (the "Request for Information"), to Majestic Garment.
29. The NOV alleged that Majestic Garment failed to comply with various provisions of both 6 NYCRR Parts 372 and 373.
30. The Request for Information required Majestic Garment to provide, in part, information regarding (a) the amounts of hazardous waste Majestic Garment generated each week and how Majestic Garment disposed of the hazardous waste that it generated, (b) how Majestic Garment disposed of its perc-contaminated lint, (c) how Majestic Garment disposed of the solid waste that it generated, (d) the corporate status of Majestic Garment and information pertaining to the commencement of Majestic Garment's operations at the facility, (e) the number of employees Majestic Garment retained and the job descriptions of these employees and (f) copies of specific documents relating to Majestic Garment's

employee training, preparedness and prevention records, permits and certifications received from any local state or federal agency and notifications that Majestic Garment submitted to local, state or federal agencies.

31. The Request for Information required Majestic Garment to respond within thirty (30) business days of receipt of the Request.
32. Upon information and belief, Majestic Garment received this joint NOV/Request for Information letter on or about March 20, 1999.
33. On or about April 22, 1999, Majestic Garment submitted its response to EPA's March 12, 1999 joint NOV/Request for Information letter.
34. In Majestic Garment's Response, Majestic Garment did not submit the information describing the steps it had taken to address the concerns specified in the NOV nor did Majestic Garment answer all of the questions that were asked in or provide all of the documentation that was required by the Request for Information.
35. In its Information Response, Majestic Garment: (a) stated that it did not know the amounts of hazardous waste it generated each week, (b) did not provide any of the Land Disposal Restriction forms that should have accompanied the manifest that it did provide, (c) provided no information regarding its perc purchases and usages, (d) provided no information regarding the disposal of its perc contaminated lint waste, (e) provided no information regarding the legal owner of the facility nor any of the agreements it had with the legal owner to conduct dry cleaning activities at the facility, (f) provided no records relating to its personnel or training activities or its preparedness and emergency programs and (g) provided no information regarding any state and federal notifications it made and did not provide copies of any state or federal permits it had obtained to operate a dry cleaning business at the facility.
36. On or about May 14, 1999, EPA issued another joint NOV/Request for Information, pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927 (the "second Request"), to Majestic Garment.
37. The second Request required Majestic Garment to provide a complete response to the NOV and to provide complete answers to the questions that Majestic Garment had not responded to in the March 12, 1999 NOV/Request for Information letter.
38. Upon information and belief, Majestic Garment received this joint NOV/Request for Information on or about May 19, 1999.

39. As of the date of the issuance of this Complaint, Compliance Order and Notice of Opportunity for Hearing, Majestic Garment has failed to provide a response to the May 14, 1999 NOV/Request for Information letter.
40. Majestic Garment's failure or refusal to provide full and complete responses as described in paragraphs "34", "35" and "39", above, constitutes a violation of Section 3007 of RCRA, 42 U.S.C. § 6927.

COUNT 2 - Failure To Minimize Releases

41. Complainant realleges each allegation contained in paragraphs, "1" through "26", inclusive, with the same force and effect as if fully set forth herein.
42. Pursuant to 6 NYCRR § 372.2(a)(8)(iii)('d') a generator who generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month must comply, *inter alia*, with 6 NYCRR § 373-3.3, to be exempt from the standards and requirements in 6 NYCRR Part 373 applicable to treatment, storage and disposal facilities, including the need to obtain a permit or qualify for interim status.
43. Pursuant to 6 NYCRR § 373-3.3(b), the facility must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.
44. At and around the time of the inspection, Majestic Garment was treating, storing and/or disposing of hazardous waste.
45. At and around the time of the inspection, Majestic Garment failed to contain or minimize:
(a) separator water from overflowing into a floor drain as described above in paragraph "15", (b) a steady leak of liquid to a floor drain as described above in paragraph "16", (c) leaks from a perc residual tank as described above in paragraph "19", (d) releases of perc to the air from perc-contaminated lint and other spillage as described above in paragraph "20", (e) releases of perc-contaminated post dry cleaning process steam press water onto the ground outside the facility building as described above in paragraph "21", and (f) releases of waste water from washings of perc-contaminated spin disks as described above in paragraph "22".

46. Majestic Garment's failure to maintain and operate the Facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water as described in paragraph "45", above constitutes a violation of 6 NYCRR § 373-3.3(b).

II. PROPOSED CIVIL PENALTY

The Complainant proposes, subject to the receipt and evaluation of further relevant information, that the Respondent be assessed the following civil penalty for the violations alleged in this Complaint:

Count 1: \$ 19,250

Count 2: \$ 24,750

Total Proposed Penalty: \$ 44,000

The proposed civil penalty has been determined in accordance with Section 3008(a)(3) of the Act, 42 U.S.C. § 6928(a)(3). For purposes of determining the amount of any penalty assessed, Section 3008(a)(3) requires EPA to “take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required EPA to adjust its penalties for inflation on a periodic basis. EPA has issued the Civil Monetary Penalty Inflation Adjustment Rule under which violations which occur on January 31, 1997 or later are subject to a new statutory maximum civil penalty. The maximum civil penalty under section 3008(a)(3) of RCRA for such violations is \$27,500 per day of violation. 40 C.F.R. Part 19 (61 Fed. Reg. 69360, December 31, 1996).

To develop the proposed penalty in this Complaint, the Complainant has taken into account the particular facts and circumstances of this case with specific reference to EPA’s 1990 RCRA Penalty Policy. The penalty amounts in this guidance were amended by a May 9, 1997 EPA document entitled “Modifications to EPA’s Penalty Policies to Implement the Civil Monetary Penalty Inflation rules (Pursuant to the Debt Collection Improvement Act of 1996)” Both of these documents are available upon request.

This guidance provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors to particular cases.

A penalty calculation worksheet and narrative explanation to support the penalty figure for each violation cited in this Complaint is included in Attachment I, below. The matrix employed in the determination of the penalty is included as Attachment II, below.

II. COMPLIANCE ORDER

Based upon the foregoing, and pursuant to the authority of Section 3008 of the Act, Complainant herewith issues the following Compliance Order to the Respondent:

1. Respondent shall, by no later than fifteen (15) calendar days of the effective date of this Compliance Order, provide all of the information requested (and not already submitted) in the March 12, 1999 and May 14, 1999, joint NOV/Request for Information.
2. Respondent shall, by no later than ten days after the effective date of this Compliance Order, comply with all applicable state and federal regulatory requirements for accumulation of hazardous waste by generators. At a minimum, the following must be addressed:
 - a. Seal the numerous floor drains located in front of the dry cleaning plants and within trough systems directly behind the dry cleaning plants and storage drums;
 - b. Immediately repair all leaks;
 - c. Clean up the perc waste spill residue and perc-contaminated lint wastes from the floor, pipes, process equipment, the back wall, and any other areas which may be contaminated with such wastes;
 - d. Immediately begin managing the dry cleaning lint wastes and spin disk residual wastes as hazardous waste;
 - e. Immediately cease the practice of disposing post dry cleaning process steam press water outside the facility building; and
 - f. Immediately begin a weekly program of hazardous waste management inspections.
3. Respondent shall establish operational procedures to ensure that, in the event of a perc release, the release is immediately contained and cleaned up. At a minimum, these measures must include where applicable:
 - a. Temporarily stopping dry cleaning processes and operations;

- b. Temporarily increasing room exhaust ventilation; and,
 - c. Collecting and containing released perc and removing and maintaining containers.
4. Respondent shall submit within fifteen (15) calendar days of the effective date of this Compliance Order to EPA written notice of its compliance (accompanied by a copy of all appropriate supporting documentation) or noncompliance for each of the requirements cited in Count 2 above, and addressing each point of Part 2 and Part 3 of this Order,. If the Respondent is in noncompliance with a particular requirement, the notice shall state the reasons for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement.
5. All responses, documentation, and evidence submitted in response to this order should be sent to:
- Mr. Joel Golumbek, Chief
 - Hazardous Waste Compliance Section
 - RCRA Compliance Branch
 - Division of Enforcement and Compliance Assistance
 - U.S. Environmental Protection Agency- Region 2
 - 290 Broadway, 22nd Floor
 - New York, NY 10007-1866

Consistent with the provisions of Section 3008 of the Act, 42 U.S.C. §§ 6901, et seq., this Order shall become final unless, no later than thirty days after the Order is served, you request a hearing.

IV. NOTICE OF LIABILITY FOR ADDITIONAL CIVIL PENALTIES

Pursuant to the terms of Section 3008(c) of RCRA and the Debt Collection Improvement Act of 1996, a violator failing to take corrective action within the time specified in a Compliance Order is liable for a civil penalty of up to \$27,500 for each day of continued noncompliance. Such continued noncompliance may also result in suspension or revocation of any permits issued to the violator whether issued by EPA or the State of New York.

V. PROCEDURES GOVERNING THIS ADMINISTRATIVE LITIGATION

The rules of procedure governing this civil administrative litigation have been set forth in 64 Fed. Reg. 40138 (July 23, 1999), entitled, "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENTS OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS", and which are to be codified at 40 C.F.R. Part 22. A copy of these rules accompanies this "Complaint, Compliance Order and Notice of Opportunity for Hearing" (hereinafter referred to as the "Complaint").

A. Answering The Complaint

Where Respondent intends to contest any material fact upon which the Complaint is based, to contend that the proposed penalty and/or the compliance order is inappropriate or to contend that Respondent is entitled to judgment as a matter of law, Respondent must file with the Regional Hearing Clerk of EPA, Region II, both an original and one copy of a written answer to the Complaint, and such Answer must be filed within 30 days after service of the Complaint. 40 C.F.R. § 22.15(a). The address of the Regional Hearing Clerk of EPA, Region II, is:

**Regional Hearing Clerk
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th floor
New York, New York 10007-1866**

Respondent shall also then serve one copy of the Answer to the Complaint upon Complainant and any other party to the action. 40 C.F.R. § 22.15(a).

Respondent's Answer to the Complaint must clearly and directly admit, deny, or explain each of the factual allegations that are contained in the Complaint and with regard to which Respondent has any knowledge. 40 C.F.R. § 22.15(b). Where Respondent lacks knowledge of a particular factual allegation and so states in its Answer, the allegation is deemed denied. 40 C.F.R. § 22.15(b).

The Answer shall also set forth: (1) the circumstances or arguments that are alleged to constitute the grounds of defense, (2) the facts that Respondent disputes (and thus intends to place at issue in the proceeding) and (3) whether Respondent requests a hearing. 40 C.F.R. § 22.15(b).

Respondent's failure affirmatively to raise in the Answer facts that constitute or that might constitute the grounds of its defense may preclude Respondent, at a subsequent stage in this proceeding, from raising such facts and/or from having such facts admitted into evidence at a hearing.

B. Opportunity To Request A Hearing

If requested by Respondent, a hearing upon the issues raised by the Complaint and Answer may be held. 40 C.F.R. § 22.15(c). If, however, Respondent does not request a hearing, the Presiding Officer (as defined in 40 C.F.R. § 22.3) may hold a hearing if the Answer raises issues appropriate for adjudication. 40 C.F.R. § 22.15(c). With regard to compliance orders in the Complaint, unless Respondent requests a hearing pursuant to 40 C.F.R. § 22.15 within 30 days after such orders are served, such orders shall automatically become final. 40 C.F.R. § 22.37

Any hearing in this proceeding will be held at a location determined in accordance with 40 C.F.R. § 22.21(d). A hearing of this matter will be conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-59, and the procedures set forth in Subpart D of 40 C.F.R. Part 22.

C. Failure To Answer

If Respondent fails in its Answer to admit, deny, or explain any material factual allegation contained in the Complaint, such failure constitutes an admission of the allegation. 40 C.F.R. § 22.15(d). If Respondent fails to file a timely [i.e. in accordance with the 30-day period set forth in 40 C.F.R. § 22.15(a)] Answer to the Complaint, Respondent may be found in default upon motion. 40 C.F.R. § 22.17(a). Default by Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. 40 C.F.R. § 22.17(a). Following a default by Respondent for a

failure to timely file an Answer to the Complaint, any order issued therefor shall be issued pursuant to 40 C.F.R. § 22.17(c).

Any penalty assessed in the default order shall become due and payable by Respondent without further proceedings 30 days after the default order becomes final pursuant to 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d). If necessary, EPA may then seek to enforce such final order of default against Respondent, and to collect the assessed penalty amount, in federal court. Any

default order requiring compliance action shall be effective and enforceable against Respondent without further proceedings on the date the default order becomes final under 40 C.F.R. § 22.27(c). 40 C.F.R. § 22.17(d).

D. Exhaustion Of Administrative Remedies

Where Respondent fails to appeal an adverse initial decision to the Environmental Appeals Board pursuant to 40 C.F.R. § 22.30, and that initial decision thereby becomes a final order pursuant to the terms of 40 C.F.R. § 22.27(c), Respondent waives its right to judicial review. 40 C.F.R. § 22.27(d).

In order to appeal an initial decision to the Agency's Environmental Appeals Board [EAB; see 40 C.F.R. § 1.25(e)], "Respondent must do so 'within 30 days after the initial decision is served upon the parties'. 40 C.F.R. § 22.30(a). Pursuant to 40 C.F.R. § 22.07(c), where service is effected by mail, "five days shall be added to the time allowed by these rules for the filing of a responsive pleading or document". Note that the 45-day period provided for in 40 C.F.R. § 22.27(c) [discussing when an initial decision becomes a final order] does not pertain to or extend the time period prescribed in 40 C.F.R. § 22.30(a) for a party to file an appeal to the EAB of an adverse initial decision.

INFORMAL SETTLEMENT CONFERENCE

Whether or not Respondent requests a formal hearing, EPA encourages settlement of this proceeding consistent with the provisions of the Act and its applicable regulations. 40 C.F.R. § 22.18(b). At an informal conference with a representative(s) of Complainant, Respondent may comment on the charges made in this complaint, and Respondent may also provide whatever additional information that it believes is relevant to the disposition of this matter, including: (1) actions Respondent has taken to correct any or all of the violations herein alleged, (2) any information relevant to Complainant's calculation of the proposed penalty, (3) the effect the proposed penalty would have on Respondent's ability to continue in business and/or (4) any other special facts or circumstances Respondent wishes to raise.

Complainant has the authority to modify the amount of the proposed penalty, where appropriate, to reflect any settlement agreement reached with Respondent, to reflect any relevant information previously not known to Complainant or to dismiss any or all of the charges, if Respondent can demonstrate that the relevant allegations are without merit and that no cause of action as herein alleged exists. Respondent is referred to 40 C.F.R. § 22.18.

Any request for an informal conference or any questions that Respondent may have regarding this complaint should be directed to:

Gary H. Nurkin
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 16th floor
New York, New York 10007-1866
(212) 637-3195

The parties may engage in settlement discussions irrespective of whether Respondent has requested a hearing. 40 C.F.R. § 22.18(b)(1). Respondent's requesting a formal hearing does not prevent it from also requesting an informal settlement conference; the informal conference procedure may be pursued simultaneously with the formal adjudicatory hearing procedure. A request for an informal settlement conference constitutes neither an admission nor a denial of any of the matters alleged in the Complaint. Complainant does not deem a request for an informal settlement conference as a request for a hearing as specified in 40 C.F.R. § 22.15(c).

A request for an informal settlement conference does not affect Respondent's obligation to file a timely Answer to the Complaint pursuant to 40 C.F.R. § 22.15. No penalty reduction, however, will be made simply because an informal settlement conference is held.

Any settlement that may be reached as a result of an informal settlement conference shall be embodied in a written consent agreement. 40 C.F.R. § 22.18(b)(2). In accepting the consent agreement, Respondent waives its right to contest the allegations in the Complaint and waives its right to appeal the final order that is to accompany the consent agreement. 40 C.F.R. § 22.18(b)(2). In order to conclude the proceeding, a final order ratifying the parties' agreement to settle will be executed. 40 C.F.R. § 22.18(b)(3).

Respondent's entering into a settlement through the signing of such Consent Agreement and its complying with the terms and conditions set forth in the such Consent Agreement terminate this administrative litigation and the civil proceedings arising out of the allegations made in the complaint. Respondent's entering into a settlement does not extinguish, waive, satisfy or otherwise affect its obligation and responsibility to comply with all applicable statutory and regulatory requirements, and to maintain such compliance.

RESOLUTION OF THIS PROCEEDING WITHOUT HEARING OR CONFERENCE

If, instead of filing an Answer, Respondent wishes not to contest the compliance order in the Complaint and wants to pay the total amount of the proposed penalty within 30 days after receipt of the Complaint, Respondent should promptly contact the Assistant Regional Counsel identified on the previous page.

Date:**Complainant:**

George Pavlou, Director
Division of Enforcement and Compliance Assistance
Environmental Protection Agency, Region II

To: Mr. Nisson Bababekov, President
Majestic Garment Inc.
740 Pine Street
Brooklyn, NY 11208

cc: Sal Carlemango, Unit Supervisor
Hazardous Waste Compliance and Enforcement Unit, NYSDEC
50 Wolf Road
Albany, NY 12233-7250

bcc: Carl F. Plossl, DECA-RCB
John Gorman, DECA-CAPS
RCRA file

CERTIFICATE OF SERVICE

This is to certify that on the day of _____, 1999, I served a true and correct copy of the foregoing Complaint and a copy of the Consolidated Rules of Practice by certified mail to Mr. Nisson Bababekov, President, Majestic Garment Cleaners, Inc. 740 Pine Street, Brooklyn, NY 11208. I hand carried the original and a copy of the foregoing Complaint to the Regional Hearing Clerk.

ATTACHMENT I

NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT Penalty Computation Worksheet (Count 1)

Respondent: Majestic Garment Cleaners, Inc.

Facility Address: Located at the intersections of Loring Avenue, Pine Street and Euclid Avenue bearing the addresses of 1147 - 1151 Loring Avenue, 740 - 748 Pine Street and 800 Euclid Avenue, Brooklyn, NY 11208.

Requirement Violated: Section 3007 of RCRA, 42 U.S.C. § 6927

Respondent failed to provide an adequate response to the March Information Request Letter and failed to provide any response to the May Information Request Letter.

PENALTY AMOUNT FOR COMPLAINT

1. Gravity based penalty from matrix	19,250
(a) Potential for harm. MAJOR	
(b) Extent of Deviation. MODERATE	
2. Select an amount from the appropriate multi-day matrix cell.	N/A
3. Multiply line 2 by number of days of violation minus 1.	N/A
4. Add line 1 and line 3	19,250
5. Percent increase/decrease for good faith.	N/A
6. Percent increase for willfulness/negligence.	N/A
7. Percent increase for history of noncompliance.	N/A
8. Total lines 5 through 7.	N/A
9. Multiply line 4 by line 8.	N/A
10. Calculate economic benefit.	N/A
11. Add lines 4, 9 and 10 for penalty amount to be inserted into the complaint.	19,250

NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT
Penalty Computation Worksheet (Count 1)

1.Gravity Based Penalty

- a. Potential for Harm - The potential for harm present in this violation was determined to be MAJOR. Majestic Garment's failure to fully respond to the first NOV/Information Request Letter and its failure to respond at all to the second NOV/ Information Request Letter has a substantial adverse impact on EPA's ability to implement the hazardous waste management program. By not providing all the requested information, EPA can not make a determination as to whether the Majestic Garment has come into full compliance or corrected all of the deficiencies alleged in the NOVs.

- b. Extent of Deviation - The extent of deviation present in this violation was determined to be MODERATE. Majestic Garment did partially respond to the first of two Information Request Letters and did correct some of the deficiencies alleged in the first NOV.

The applicable cell ranges from \$16,500 to \$21,999. The mid point of the cell range was chosen.

- c. Multiple/Multi-day - Majestic Garment's failure to fully respond to the two NOVs/Information Request Letters, is being considered initially as a one-time event because of its small size.

2.Adjustment Factors

- a. Good Faith - EPA is not presently aware of any cooperative or good-faith efforts on the part of Majestic Garment. No adjustment was made.
- b. Willfulness/Negligence - Not applicable
- c. History of Compliance - Not applicable
- d. Ability to Pay - Applicable, but not yet determined.
- e. Environmental Project - Not applicable
- f. Other Unique Factors - Not applicable

3.Economic Benefit - Not assessed at this time

NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT
Penalty Computation Worksheet (Count 2)

Respondents: Majestic Garment

Facility Address: Located at the intersections of Loring Avenue, Pine Street and Euclid Avenue bearing the addresses of 1147 - 1151 Loring Avenue, 740 - 748 Pine Street and 800 Euclid Avenue, Brooklyn, NY 11208.

Requirements Violated: 6 NYCRR § 373-3.3(b)

Majestic Garment failed to maintain and operate the Facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

PENALTY AMOUNT FOR COMPLAINT

1. Gravity based penalty from matrix	24,750
(a) Potential for harm. MAJOR	
(b) Extent of Deviation. MAJOR	
2. Select an amount from the appropriate multi-day matrix cell.	N/A
3. Multiply line 2 by number of days of violation minus 1.	N/A
4. Add line 1 and line 3	24,750
5. Percent increase/decrease for good faith.	N/A
6. Percent increase for willfulness/negligence.	N/A
7. Percent increase for history of noncompliance.	N/A
8. Total lines 5 through 7.	N/A
9. Multiply line 4 by line 8.	N/A
10. Calculate economic benefit.	N/A
11. Add lines 4, 9 and 10 for penalty amount to be inserted into the complaint.	24,750

NARRATIVE EXPLANATION TO SUPPORT COMPLAINT AMOUNT
Penalty Computation Worksheet (Count 2)

1.Gravity Based Penalty

- a. Potential for Harm - The potential for harm present in this violation was determined to be MAJOR. There is a substantial potential for harm present in Majestic Garment's failure to minimize the possibility of releases. The hazardous waste practices at the facility may have exposed employees to hazardous waste through volatilization and subsequent inhalation. Hazardous wastes were released to the air directly through volatilization and indirectly to the water through sewer releases. A hazardous waste constituent was routinely piped directly onto the soil. The surrounding community, which included persons living in low income housing, was at potential risk from air releases.

- b. Extent of Deviation - The extent of deviation present in this violation was determined to be MAJOR. Majestic Garment failed to meet the applicable RCRA regulations promulgated to minimize the possibility of releases from hazardous waste facilities.

The applicable cell ranges from \$22,000 to \$27,500. The mid point of the cell range was chosen because of Majestic Garment's small size.

- c. Multiple/Multi-day - Because of Respondent's small size, a multi-day penalty was not selected.

2.Adjustment Factors

- a. Good Faith - EPA is not presently aware of any cooperative or good-faith efforts on the part of the Respondent. No adjustment was made.
- b. Willfulness/Negligence - Not applicable
- c. History of Compliance - Not applicable
- d. Ability to Pay - Applicable, but not yet determined.
- e. Environmental Project - Not applicable
- f. Other Unique Factors - Not applicable

3.Economic Benefit - Not assessed at this time.

ATTACHMENT II

EXTENT OF DEVIATION

EXTENT OF DEVIATION FROM REQUIREMENT				
P O T E N T I A L f o r H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$27,500 to 22,000	\$21,999 to 16,500	\$16,499 to 12,100
	MODERATE	\$12,099 to 8,800	\$8,799 to 5,500	\$5,499 to 3,300
	MINOR	\$3,299 to 1,650	\$1,649 TO 550	\$549 TO 110

MULTI-DAY MATRIX

EXTENT OF DEVIATION FROM REQUIREMENT				
P O T E N T I A L f o r H A R M		MAJOR	MODERATE	MINOR
	MAJOR	\$5,000 to 1,000	\$4,999 to 750	\$3,000 to 550
	MODERATE	\$2,200 to 400	\$1,600 to 250	\$1,000 to 150
	MINOR	\$600 to 100	\$300 TO 100	\$100